HWACalendar.

February 17, 1993

MONTHLY MEETING

DEP ONE WINTER STREET

BOSTON

7TH FLOOR CONFERENCE ROOM

Published by the Hazardous Waste Management Program for the HAZARDOUS WASTE ADVISORY COMMITTEE for more information call Nancy Wrenn at 617-292-5587

Agenda

- 9:30 Minutes of HWAC meeting of 1/20/93
- 9:45 Announcements and status reports
 Policy Update
 Regulation Update
- 10:00 Regs Review Subcommittee Report
- 10:30 Rail Transfer Report of the Transporter Committee
- 11:00 Bureau of Waste Prevention Redesign
- 11:45 Election of a new steering committee *
 - * According to HWAC Rules of Procedure, 35% of the voting membership shall constitute a quorum. Currently there are 10 members.

Upcoming meetings:

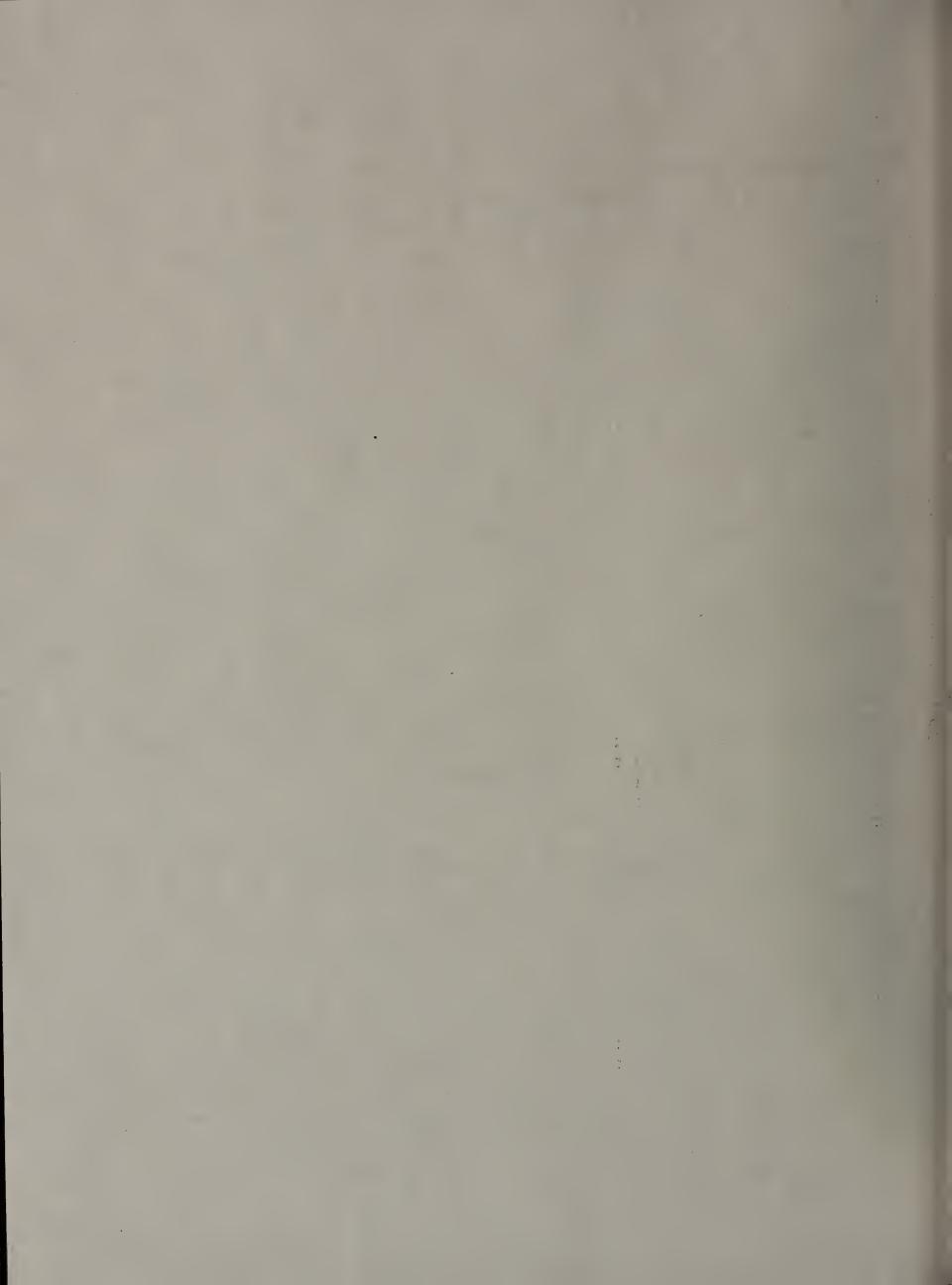
Regs Review Subcommittee
Mass. Dept. Fish & Wildlife Bldg.
Route 9 & 135, Westboro

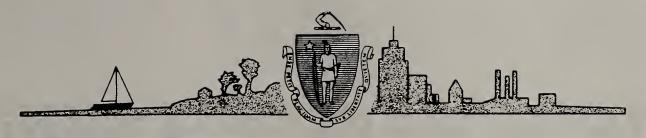
Transporter Committee
DEP, 10th Floor Conference Room

March 5, 1993 9:30 - 3:00 Topic: 30.310,.400

> March 10, 1993 10:00 - Noon

Note: The next HWAC meeting will be held March 24, not March 17.





Massachusetts Hazardous Waste Management Advisory Committee

Minutes of HWAC Meeting January 20, 1993

Members present: Brown (chair), Cahaly, Mascoop, McGregor,

Rubinstein, Schloss

Absent: Adams, Cox, Ozonoff, Swedis

The minutes of the HWAC meeting of 12/16/92 were accepted as written. <u>Geoff Brown</u> announced that the Committee's letter in support of additional legal services for the Hazardous Waste Management Program was mailed to the Commissioner the previous week. A copy will be made available to the members.

Brown reported that the Regs Review Subcommittee had their first meeting on January 7. The job of this committee would be to act in parallel with the recodification work proposed by Steve DeGabriele, recommending changes as needed to make the regulations more understandable, equitable and effective, while respecting the minimum federal standard. Topics which were listed by the committee to be addressed were: 4 and 8-part manifest, treatment on site, non-TSDF transfers, recycling, e.g. Class A, waste oil, rejected loads, reporting requirements, household hazardous waste permits and siting, land disposal, solid waste and hazardous waste interface, and dual generator status. Cahaly requested a list comparing the federal base requirements with the Massachusetts regulations, stating that small businesses in particular would benefit from this information. The question, he suggests, is are we getting the "best bang for the buck" if we go beyond the federal. McGregor noted that minutes of these meetings should be made available, on request.

John Davey, chair of the Transporter Committee, reported that his committee has been working on the issue of hazardous waste transport by rail for one and a half years. A legal opinion from DEP was requested but there has been no response. Those members he has reached support the proposed initiative in concept. The preemption issue is a stumbling block. Steve Dreeszen stated that Mass. deferred to federal DOT regarding through-state transport and PCB transport was deferred to TOSCA. The next step is to hear from the rail carriers regarding DOT's role. Ethan Mascoop noted that he has observed minor accidents at the Allston-Brighton rail yard which is near a densely populated neighborhood and wonders how communities would respond. Philip Bendheim of Hampden Color & Chemical (HCC) said that a lot of hazardous material, often in more concentrated form, is transferred to rail and this is not regulated by the State. Hazardous waste regulations require much better safety and handling. Mary Ellen Schloss suggested a memorandum of agreement with the railroads, with identification of aquifers. etc.

<u>Sue Prior</u> noted that there is additional liability for generators. The new federal laws, creating a single manifest, <u>Dreeszen</u> said, do not add protection and there is no tie with SARA, which deals only with stationary facilities. Members present requested an update at the next HWAC meeting.

Steve Dreeszen provided a status report on TSDF's. Southampton Sanitary Engineering, a small but useful service in western Mass., is closing. Three "on-site" TSDF's are giving up their permits: ICI Americas in Dighton, a leader in the dye industry, GE in Lynn, and Shulton in West Springfield. Among the commercial TSDF's, Ashland Industrial Fuel and Jet-Line in Stoughton are likely to close. The Clean Harbors case is still unsettled and the company is operating under their 1981 interim status permit. In practice, however they are operating up to the standards of their new permit. This appeal is resting on DEP's Office of General Counsel's schedule. McGregor moved that the HWAC request a summary decision to force expedition of the case but withdrew his motion at the suggestion of Dreeszen, who advised holding off for one month. Hampden Color & Chemical's draft permit has been issued and the final is expected by the end of January. A new siting issue related to the definition of "storage" in the rail-to-truck-to-rail transfer is being debated separately, he said.

Mascoop questioned the public process attending this permit and asked that HWAC invite Springfield people to inform us. Bendheim invited members individually or collectively to visit the company and said that the community had been active participants. McGregor recused himself, acknowledging that he had been the local environmental counsel for HCC in two years of meetings with neighbors and local officials. The 150B hearing lasted 20 minutes and was without controversy, he said. He felt that people were able to distinguish between hazardous materials and hazardous waste. He offered to elaborate on this experience at the March 24 HWAC meeting. This might be a good time to invite representatives of Springfield and Gina McCarthy to revisit the 21D reform bill and discuss the public process of issuing a Part B permit.

Because of lack of a quorum, the members decided to defer the election of a new steering committee until the February meeting. An informal poll showed that Rubinstein, Mascoop, Schloss and Cahaly were not willing to serve; Cox, Brown and McGregor were willing to be considered.

In response to the question of when a member should recuse him or herself, <u>McGregor</u> referenced the conflict of interest law, stating that a member cannot participate in any deliberations where he or she is in conflict or "appearance of conflict" of interest. It is understood that particular points of view are represented and that these individuals may advise on general matters, but not specific if there is a conflict. One caveat: if a quorum is necessary to meet or vote, those in conflict may vote or sign. This is the "Rule of Necessity."

HWACale MOVERNMENT GOVERNMENTS

March 24, 1993

MONTHLY MEETING

MAR 24 1993

DEP ONE WINTER STREET BOSTON 7th FLOOR ON ENTER CONTENT COPY

Published by the Hazardous Waste Management Program

for the HAZARDOUS WASTE ADVISORY COMMITTEE

for more information call Nancy Wrenn at 617-292-5587

Agenda

9:30 Minutes of HWAC meeting of 2/17/93

Election of a Steering Committee (4 members = quorum)

9:45 Announcements and status reports

10:00 Revised Ch. 21D (HW Siting Bill) - Gina McCarthy

10:15 Proposed Universal Waste Rule (Federal) - Nancy Wrenn

10:30 Solid Waste Reduction & Recycling Act with household hazardous waste collection program (Mass.) - Leo Roy, EOEA

* * * *

11:45 Meeting of new Steering Committee

Upcoming meetings:

Regs Review Subcommittee (rescheduled)
Mass. Dept. Fish & Wildlife Bldg.
Route 9 & 135, Westboro

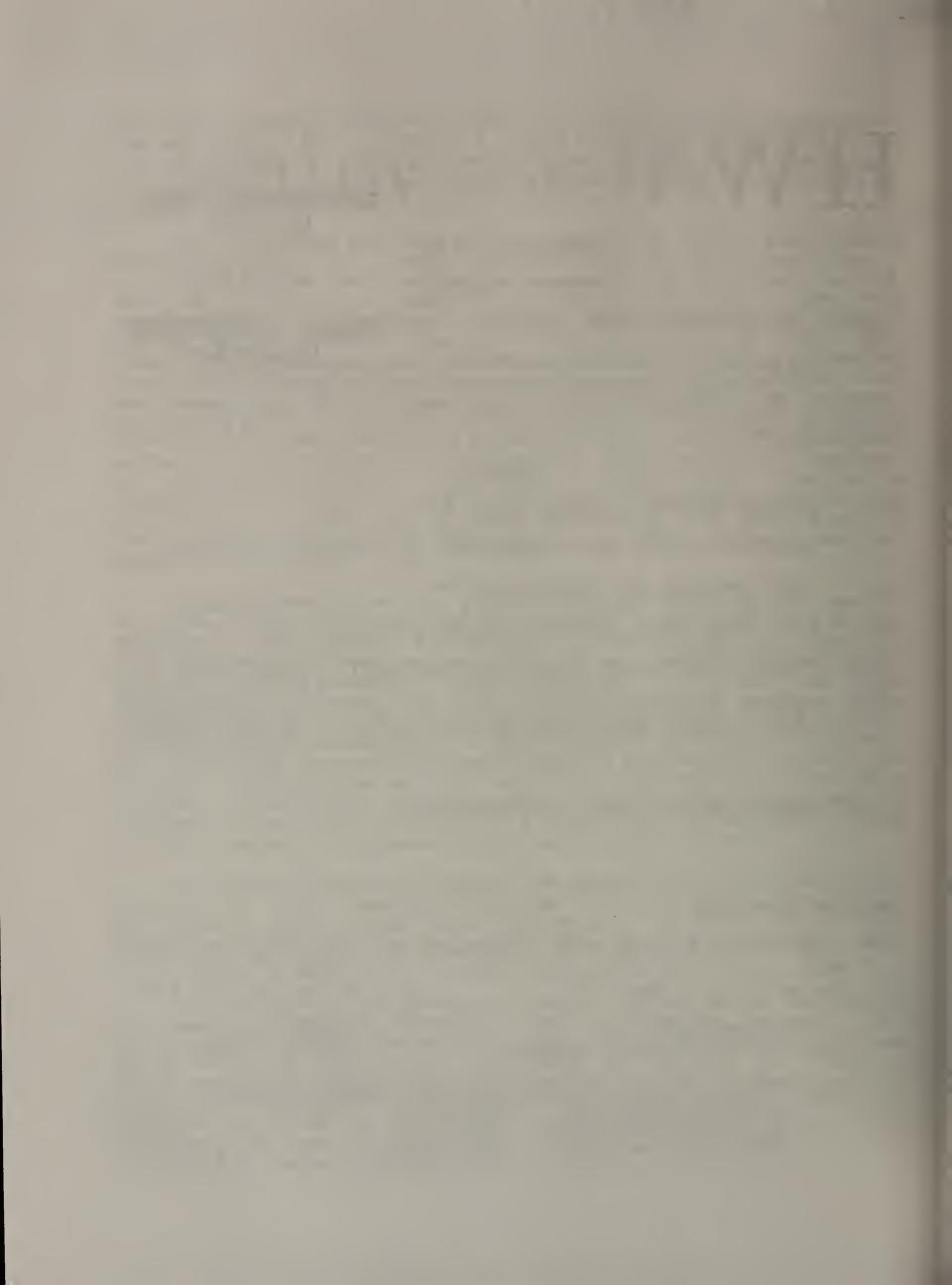
March 26, 1993 9:30 - 3:00 Topic: 30.310,.400

Transporter Committee
DEP, 5th Fl. Conference Room

April 14, 1993 10:00 - noon

Committee on Natural Resources public hearing schedule:

Solid Waste bills April 13
Hazardous Waste bills April 20
Additional hearings April 27





Massachusetts Hazardous Waste Management LECTION Advisory Committee

MAR 24 1993

Minutes of HWAC Meeting February 17, 1993 University of Massachusetts
Depository Copy

Members present: Adams, Cox (chair), Schloss

Absent: Brown, Cahaly, Mascoop, McGregor, Ozonoff, Rubinstein,

Swedis

The minutes of the 1/20/93 HWAC meeting were amended, at the request of Greg McGregor, to read "discussed" rather than "debated" in the next to last line of the second paragraph on page 2.

Steve DeGabriele reported that several interim policies and regulatory interpretations have been developed. An Interim Policy regarding the Regulatory Status of Soils Contaminated with Waste Oil of Unknown Origin (1/20/93) clarifies the characterization of soils excavated pursuant to c. 21E and is a step toward the anticipated regulatory change in 310 CMR 30.252(2). This proposed change is now expected to go to public hearing in April with proposed Air Quality regulations. A Summary of Recent Policy Decisions related to Hazardous Materials in Vehicle Maintenance was also distributed.

Andrea Adams reported that the Regs Review Subcommittee has had two meetings in which they were identifying areas for future review which were more stringent than the federal. The 300 section was reviewed at the last meeting.

Prior to discussion of rail transfer issues, Bob Cox recused himself and Andrea Adams assumed the chair. John Davey, chairman of the Transporter Committee, stated that representatives from Conrail and the Federal Rail Agency attended their last meeting. appears that any state permitting or licensing of transporters and regulation of rail transfer activities could be in conflict with DOT regulations. A written opinion is being requested of RSPA (Research & Special Program Administration) of the US DOT. Mass. would like to identify any proposed regulations which may be preempted by US DOT. DOT, for example, does not address the location where the waste is loaded and there is no "clock." Questions remain about spill containment, notification to the municipality where the transfer takes place, pumping, "license" vs. "approval," etc. Conrail offered to provide its research on this issue. Clyde Ames of Providence & Worcester said that they have their own Hazmat group, which educates fire officials in the towns in which they operate. Gina McCarthy believes that other states with restrictive standards are waiting to see what happens in Mass.

DeGabriele described the recent redesign of the Bureau of Waste Prevention, which follows the reorganization of the Department three years ago. The primary goal of the Bureau is to integrate around a whole facility approach, e.g. the cross-media inspection program, based on the pilot Blackstone Project. The Toxic Use Reduction program and the Industrial Wastewater program are now incorporated in a new division with hazardous waste. Regional offices are also being reorganized along cross-media lines and Boston/regional staff meetings will be quarterly, not monthly. The goal is to increase flexibility and develop team approaches.

Tom Powers, DEP Deputy Commissioner of Program and Policy Development, offered a brief historical perspective on environmental protection, noting that the traditional "command and control" approach may not be appropriate for smaller sources, such as consumer products and non-point discharges to stormwater. Department is therefore developing guidance rather than mandating to achieve good management practices. He then discussed a new draft interim guidance for management of spent fluorescent lamps containing mercury, as an example. <u>DeGabriele</u> noted that studies show that 5% of mercury in municipal solid waste is from these lamps. DEP's suggested approach is interim, pending further policy from EPA. The goal is to encourage retrofit initiatives and energy efficient lighting which will reduce mercury emissions from power plants. The policy states that in lieu of doing a TCLP analysis for mercury, the generator of fluorescent lamps may send them under a bill of lading to a spent lamp recycler, which will be considered the point of generation.

Stephen Cowell of Lighting Recycling, Inc. and president of a company which is working with New England utilities to distribute energy efficient light bulbs, spoke against wording in the policy which would imply that EPA may "cave" on mercury limits. Loring of Clean Water Action, which has been focussing on mercury in batteries and is promoting a battery recycling bill, noted that EPA was holding a seminar in R.I. on mercury. Len Landry of Waste Management, Inc. asked for information about who is licensed in Mass. to handle fluorescent lamps. To date, there is only one active facility in this area, AERC in Pennsylvania. Cost of recycling is estimated at 50 cents a bulb. Al Shaines questioned whether the large manufacturers of lamps could be a reverse distribution system. Andrea Adams noted that this is happening in Minnesota. DeGabriele said that he wants to ensure sufficient recycling capacity in place when DEP issues this policy. Several people suggested that utilities and manufacturers are potential aggregation points.



Commonwealth of Massachusetts Executive Office of Environmental Affairs

Department of Environmental Protection

HWAL slend of

William F. Weld Daniel S. Greenbaum COLLECTION AUG 2 1993 University of Massachusetts Depository Copy

April 12, 1993

Members of the Hazardous Waste Advisory Committee and To:

interested participants

Nancy Wrenn, DEP coordinator for HWAC

The regular April meeting of the Hazardous Waste Advisory Committee has been cancelled.

Because of several unrelated events, weather included, attendance at HWAC meetings has been less than we might have expected during the past several months.

We have therefore decided to meet with the Steering Committee to review the long term goals for the full committee, rather than hold a meeting without any significant agenda items this month. You should be aware that the Regs Review Subcommittee is actively working their way through the various sections of 310 CMR 30.000 and will be developing discussion for future HWAC meetings. Should you want to contact any member of the Steering Committee with your ideas for future work of the HWAC, they are:

Geoff Brown (413) 539-5136 Lynn Rubinstein (413) 367-2778(508) 791-3511 Bob Cox

Current status reports:

Hearing on the revised 21D legislation will be held in Room A-2 of the State House on April 20 at 10:30 AM. (See enclosed Summary.)

No official response on rail transfer questions from RSPA

No public hearing dates have been set for HW regulations

Upcoming meetings:

Regs Review Subcommittee Fish & Wildlife Bldg., Westboro May 7 9:30 - 3:00 Topic: 30.393

Transporter Committee DEP, 5th Fl. Conf. Room May 12 10 - Noon



Massachusetts Hazardous Waste Management Advisory Committee

Minutes of HWAC Meeting March 24, 1993

Members present: McGregor (chair), Schloss, Rubinstein

Absent: Adams, Brown, Cahaly, Cox, Mascoop, Ozonoff, Swedis

Note: Weather prevented many members and regular attendees from attending.

The minutes of the February 17 HWAC meeting were accepted.

Al Nardone reported that RSPA (Research & Special Program Administration of the US DOT) has been sent the proposed rail transfer regulations. An informal opinion is expected. The question is whether "approval of rail yards" could be construed as a state permit. Nardone said that he feels the rail companies would be willing to develop a memorandum of understanding with DEP, at least.

Nancy Wrenn stated that the revised c. 21D is expected to be filed very soon. Members suggested that a copy be sent to the absent members and that it be on the next HWAC agenda so that written support can be submitted on behalf of the long-standing effort of this committee. (Gina McCarthy, who arrived later, confirmed that the legislation was the same that members had seen in the past. She said that the bill has the support of MHAB, MHOA, AIM, the Mass. Environmental Lobby, High-Tech Council, and the Mass. Business Roundtable.) McCarthy anticipates that the bill will be heard on April 20.

Steve Dreeszen stated that the lawsuit challenging the grandfathering of Clean Harbors and 16 smaller hazardous waste facilities from a site assignment by the local board of health will be heard later this spring.

Nancy Wrenn described a recent proposal from EPA to provide an incentive for the collection and management of certain common waste streams which come from a wide variety of locations, are typically post-consumer, and are present in significant volumes in municipal waste streams, the so-called C-, D+ wastes. Batteries and restricted pesticides are being proposed as the first of such "universal wastes," which would be exempted from RCRA and covered under a new section of federal code - 40 CFR 273. Discussion centered on the potential for enforcement, certification of where the waste goes, transportation requirements, standards for entrepreneurs which would require adequate capitalization and market.

Leo Roy, waste policy specialist for the Executive Office of Environmental Affairs, presented a statewide plan for a mobile collection service for household hazardous waste, which is being proposed in the context of an administration bill to promote solid waste recycling through user-based fees for solid waste management. The mobile collection program envisions using state-owned property as temporary (2 week) locations for a fleet of special state vehicles, of which there would be seven servicing the entire state from April to October. This service, which would be bid through private contracts, would complement the permanent collection centers, potentially six, which are currently in early planning stages at the grass roots level. The bill also provides for an educational component and includes labeling products which "may be hazardous when discarded." An "800" number would be established to give citizens the nearest collection location for their waste. Financial support, from bottle bill escheatage funds, is proposed. Additional support would come from a nominal \$5 user fee for households. VSQG's using the collections would pay full cost based on the waste and amount (typically, 55 gals.). Certain high volume waste streams, e.g. paints, oil, antifreeze, would be collected separately, e.g. waste oil centers would be established in each community.

<u>Dreeszen</u> suggested that contractors should have access to the state insolvency fund, as pollution insurance. He questioned whether a site assignment from the board of health would be required for the permanent centers. Under current regulations, Wrenn said, there is a required "public" organizer, which presumes local support when the location is proposed. The essence of a successful collection program depends on a broad-based educational effort at the local level.

Discussion centered on the cost of the program, which is estimated at \$14 million for the first year, \$12 million in following years. Potential matching contributions from communities, as in solid waste grants, incentives for communities to develop permanent centers, and other possible sources of funding, e.g. manufacturers, retailers, were suggested.

Lynn Rubinstein described her experience in Franklin County's 4-site, simultaneous one-day collection, which averaged \$60 per car. With pre-registration they could guarantee effective budgeting and no turn-aways for the towns participating. Now that they have had several collections, the quality of the waste received is not as frightening, they have few repeat participants, and enjoy a 4-5% participation rate. Waste oil is taken by separate contract.

Rubinstein asked if Carol Amick of the Low Level Radioactive Waste Board could be invited to the next HWAC meeting to discuss substantive references to hazardous waste regulations in their regulations.



HAZARDOUS WASTE FACILITY SITE SAFETY COUNCIL

Commonwealth of Massachusetts 100 Cambridge St., Room 1405 Boston, MA 02202 Tel: 617-727-6930

TO:

Council Members and

Other Interested Individuals

FROM:

Regina McCarthy

Executive Secretary

DATE:

April 7, 1993

RE:

21D/150B Rewrite

Governor Weld filed the 21D rewrite Bill for consideration by the legislature, on March 31, 1993. The language of the Bill has been unchanged in substance since you last received a copy back in September or so. However, the sections have been renumbered with the "Purpose and Short Title" section having been deleted to conform with the legislative format. (If I sent you a copy in November or so, printed on Commonwealth of Massachusetts stationary, this is the exact filing.) If you need new copies, call me at (617)727-6930 and I will get one to you ASAP. If you have already requested one, it should be enclosed.

The Bill is House #4815. The hearing date with the Joint Committee on Natural Resources is scheduled for April 20, 1993 in Rm. A2 at the State House at 10:30AM.

Your testimony is critical. Please make time to appear at the hearing, to submit written comments, and to call your legislators. It is important that all views be expressed so that it is seen as in everyone's best interest to pass a careful, well balanced revision of 21D. We worked hard to develop the Bill that was filed, especially to try to involve all interests in the drafting process. We realize that no bill can meet everyone's expectations, so voice your likes and dislikes. A healthy public debate is always beneficial.

It is important that the balance we sought to maintain among community, environmental, and industry interests during the drafting of the Bill not be undermined during the legislative process through the passage or what may mistakenly appear to be minor revisions. This not the time to sit back and watch, it is

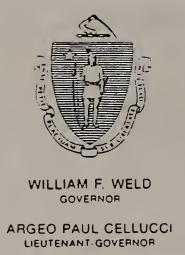
the time to vocalize your views and make sure that our quest for constructive change materializes.

Again, thanks for all your help. I have enclosed a copy of Governor Weld's cover letter which accompanied the Bill, my summary of the Bill, its process and the intent of the draft legislation which may be helpful to you. My handouts are obviously positive in nature since I wrote it, but I do believe it is accurate.

Written comments should be forwarded to:

The Honorable Senator
Robert A. Durand
Chairman, Committee on
Natural Resources
Rm. 413D
State House
Boston, MA 02133

The Honorable Representative
Steven Angelo
Chairman, Committee on
Natural Resources
Rm. 473 F
State House
Boston, MA 02133



THE COMMONWEALTH OF MASSACHUSETTS EXECUTIVE DEPARTMENT

STATE HOUSE • BOSTON 02133

(617) 727-3600

March 31, 1993

To The Honorable House of Representatives and Senate:

I am filing for your consideration "An Act To Provide An Integrated Process For The Siting Of Hazardous Waste Facilities I: The Commonwealth, And To Provide Site Communities Of Existing Hazardous Waste Facilities An Appropriate Role In The Specification Of Conditions Relating To Their Operation." This legislation consists of a major reform of Chapter 21D of the General Laws and represents a concerted effort at improving the siting processes used by the Commonwealth. The current Hazardous Waste Site Safety Council led the efforts in redrafting 21D and they have involved many outside parties in endeavoring to reach a consensus on this reform.

Massachusetts exports over 100,000 tons of hazardous waste each year, and has no in-state treatment and disposal facilities for these wastes. As a result, Massachusetts businesses pay higher costs for waste shipping and disposal than their counterparts in other states. Moreover, as other states seek to limit imports of hazardous waste, waste management options to Massachusetts businesses may become limited in the future. In addition, our state is viewed negatively by other states since we are the fourth largest net exporter of hazardous waste, and we take no responsibility for managing it here.

In 1980, Chapter 21D was passed as an emergency bill to speed the siting of hazardous waste treatment and disposal facilities. Since that time, not a single facility has been sited in Massachusetts, despite several emotional and costly attempts. There is unanimous agreement that the existing 21D is a failure and must be changed.

As part of its infrastructure, the Commonwealth must provide for the treatment, storage and disposal of hazardous wastes which are generated within its borders and which cannot be eliminated through practicable toxic use reduction or waste minimization methods. The siting in the Commonwealth of needed hazardous waste facilities and the continued operation of existing well-managed facilities, are essential to address this need.

The legislation I am filing establishes a coordinated and balanced approach to the siting and operation of these facilities. Some of the key highlights of the new process are:

- 1. It coordinates the efforts of developers, local communities, and responsible offices and agencies of the Commonwealth, to expedite the siting of new hazardous waste facilities based on sound proposals from qualified developers;
- 2. It provides local communities with an appropriate and significant role in the review of the suitability of a site for, and the anticipated impacts of, a proposed hazardous waste facility, and in specifying facility operating conditions through the facility license process.
- 3. It provides a mechanism for payment of compensation by the developer of a new hazardous waste facility to a site community and affected communities; and
- 4. It provides the site community of an existing hazardous waste facility an appropriate and significant role in the specification of facility operating conditions through the facility license process.

The newly reconstituted Hazardous Waste Site Safety Council would be the state agency coordinating the state role in this effort. The mandates for this agency include: determining the need for hazardous waste facilities in the Commonwealth; seeking developers from which to solicit sound facility proposals; coordinating the efforts of responsible state offices and agencies in the initial review of the qualifications of a developer and the merits of a facility proposal; assisting qualified developers to identify suitable sites for facilities; promoting sound proposals to communities; and educating the public in the issues and procedures involved in facility siting.

I believe that the siting process embodied in this Act represents a model that can be pursued for many different types of waste management facilities. I am confident that the General Court will recognize the importance of this reform and will act expeditiously to pass this legislation.

Sincerely,

W. Wramf. Weld

William F. Weld Governor

SUMMARY AND HIGHLIGHTS

The Proposed Hazardous Waste Siting bill, if passed by the legislature, would replace both existing MGL chapters 21D and 150B, and provide an entirely new approach to siting hazardous waste facilities and expanding existing facilities.

The bill represents months of effort on the part of EOEA, conjunction with interested persons from a wide variety of industry, environmental, and community concerns, to reach a compromise bill to provide a simpler, more rational, and more predictable approach to siting needed hazardous waste facilities and ensuring the continued operation of well managed existing facilities. It attempts to strike a carefully drafted balance between community, environmental, and industry interests. The bill is designed to encourage developers to build new facilities, and make it easier for operators of existing facilities to expand them, in compliance with strict standards for the protection of public health and safety and the environment. At the same time, it provides for the development and review of sound proposals designed to attract volunteer communities; and gives local communities a significant role in reviewing the suitability of a site for, and the anticipated impacts of, a proposed facility, and in specifying the conditions of the facility's operating license. A community is not, however, authorized to veto a well-conceived new facility, or to shut down a well-run existing facility. Community participation int he process is funded by developers, not the Commonwealth.

Highlights of the New Bill

Process for new facilities - The bill seeks to encourage the siting of needed, environmentally sound hazardous waste facilities by screening for the best technologies and developers and by actively soliciting volunteer communities.

- 1. The new process specifies a detailed upfront review and screening of proposals and developers before they are allowed to submit a site specific proposal.
- 2. Site suitability criteria for facilities are enhanced to prevent the state and local community from having to entertain good proposals in inappropriate locations. The criteria are not waivable to ensure that all sites meet certain environmental, health and safety standards.
- 3. The local governing body makes a preliminary site suitability decision based on clearcut statutory standards. It is given the authority to form its own representative body to participate in the process, in consultation with the Board of Health and other interested local bodies and authorities.
- 4. The site community and all potentially affected communities

are given fee money directly from the developer to allow maximum participation in the MEPA and DEP licensing process.

- 5. The DEP is required to address all local issues in the licensing process. The license appeal process remains unchanged.
- 6. The state offers mediation services to assist the parties through the licensing process and in reaching any outside agreements.
- 7. Minimum compensation to the site and affected communities is required in the statute.
- 8. There is no provision for local veto. However, if the upfront screening is carried out as outlined, only communities who wish to entertain a proposal will be in the siting process.

Process for existing facilities - The expanded licensing process is applied to existing facilities during Part B renewal process.

- Existing facilities who have 150B site assignments are grandfathered, unless they request license modifications.
- 2. Fees are paid directly to the site community to participate in the license renewal process.
- 3. The new licensing process is the same as that outlined above for new facilities, including appeal rights, mediation, and monitoring fees.
- There is a new process for dealing with license modifications that is designed to provide more flexibility to existing facilities as long as the expanded licensing process, including the funded local review and specified local license conditions, is successfully completed. Major modifications require that the operator proceed through the entire 21D process, including a needs determination and site suitability decision.

We continue to meet with interested groups to discuss the new bill. Thus far, we are not aware of any significant opposition to the proposed process for new facilities. However, environmental groups are concerned with potential changes to the bill during the legislative review process which would tilt the carefully drafted balance between community, environment and industry interest. Industry representatives have expressed concern over the bill's impact on existing facilities while recognizing that if communities are given no rights at all beyond the existing licensing process, opposition from community and environmental groups will present a clear obstacle to the bill's passage.

NEW 21D PROCESS

- COUNCIL DEVELOPS NEEDS POLICY
- COUNCIL SOLICITS PROPOSALS
- DEVELOPER FILES COQ APPLICATION:

COUNCIL DECISION

DEP DECISION

ECON. AFFAIRS DECISION

100 DAY TIMETABLE

APPEAL OF DENIAL TO COURT, NO APPEAL OF GRANTING

- DEVELOPER HAS ONE YEAR TO NAME SITE
- COUNCIL SEEKS VOLUNTEER COMMUNITIES
- DEVELOPER FILES SITE SPECIFIC APPLICATION
- SITE SUITABILITY DECISION

FEES TO SITE AND POTENTIALLY AFFECTED COMMUNITIES (WITHIN TWO MILES OF SITE)

60 DAYS

DEP APPEAL

- DEVELOPER FILES PART B APPLICATION WITHIN 90 DAYS OF POSITIVE SITE SUITABILITY DECISION
- MEPA PROCESS BEGINS

CAC NOT LAC, WITH REPRESENTATIVES OF THE SITE AND POTENTIALLY AFFECTED COMMUNITIES

FEES PAID TO COMMUNITIES TO FUND PARTICIPATION

SEA NO LONGER REQUIRED

SECRETARY OF EOEA IDENTIFIES AFFECTED COMMUNITIES

DEP AND DPH ACTIVE ROLE IN MEPA

SCOPE IN 60 DAYS

- DRAFT EIR WITHIN 180 DAYS OF SCOPE
 - FINAL WITHIN 120 DAYS OF DRAFT
- DEP LICENSE PROCESS BEGINS

DEP STARTS REVIEW IMMEDIATELY

ACTIVELY USE MEPA PROCESS IN LICENSE REVIEW

DRAFTING OF LICENSE BEGINS THIRTY DAYS AFTER ADEQUACY

FEES PAID TO SITE AND AFFECTED COMMUNITIES TO FUND

PARTICIPATION IN LICENSE PROCESS

COMMUNITIES HAVE ROLE IN REVIEWING AND DRAFTING LICENSE

COMMUNITIES RAISE ALL LOCAL ISSUES

DEP REASONABLY ADDRESSES ALL ISSUES IN DRAFT LICENSE

MEDIATION OFFERED

OFFSETTING RISK REDUCTIONS CONSIDERED BY DEP AND THE DEVELOPER

JUDICIAL APPEAL OF LICENSE

- MEDIATION OFFERED FOR REACHING OUTSIDE AGREEMENTS
- AFFECTED COMMUNITIES ENTITLED TO A PERCENTAGE OF THE COMPENSATION PAID BY THE DEVELOPER. THE AMOUNT GRANTED TO EACH AFFECTED COMMUNITY IS ARBITRATED.

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May 19, 1993

MEETING OF THE ADVISORY COMMITTEE

DEP One Winter Street Boston 7th Floor Conference Room

Published by the Hazardous Waste Management Program for the Hazardous Waste Advisory Committee for more information call Nancy Wrenn at 617-292-5587

Agenda

- 9:30 Minutes of HWAC meeting of March 24, 1993
 Announcements and status reports
- 9:45 Report of the Regs Review Subcommittee Geoff Brown
 Proposed communication to DEP management re. recodification
- 10:15 Report of the Steering Committee Lynn Rubinstein

 Proposed revised meeting schedule discussion *

 Proposed revision of HWAC Rules of Procedure Bob Cox

Upcoming meetings:

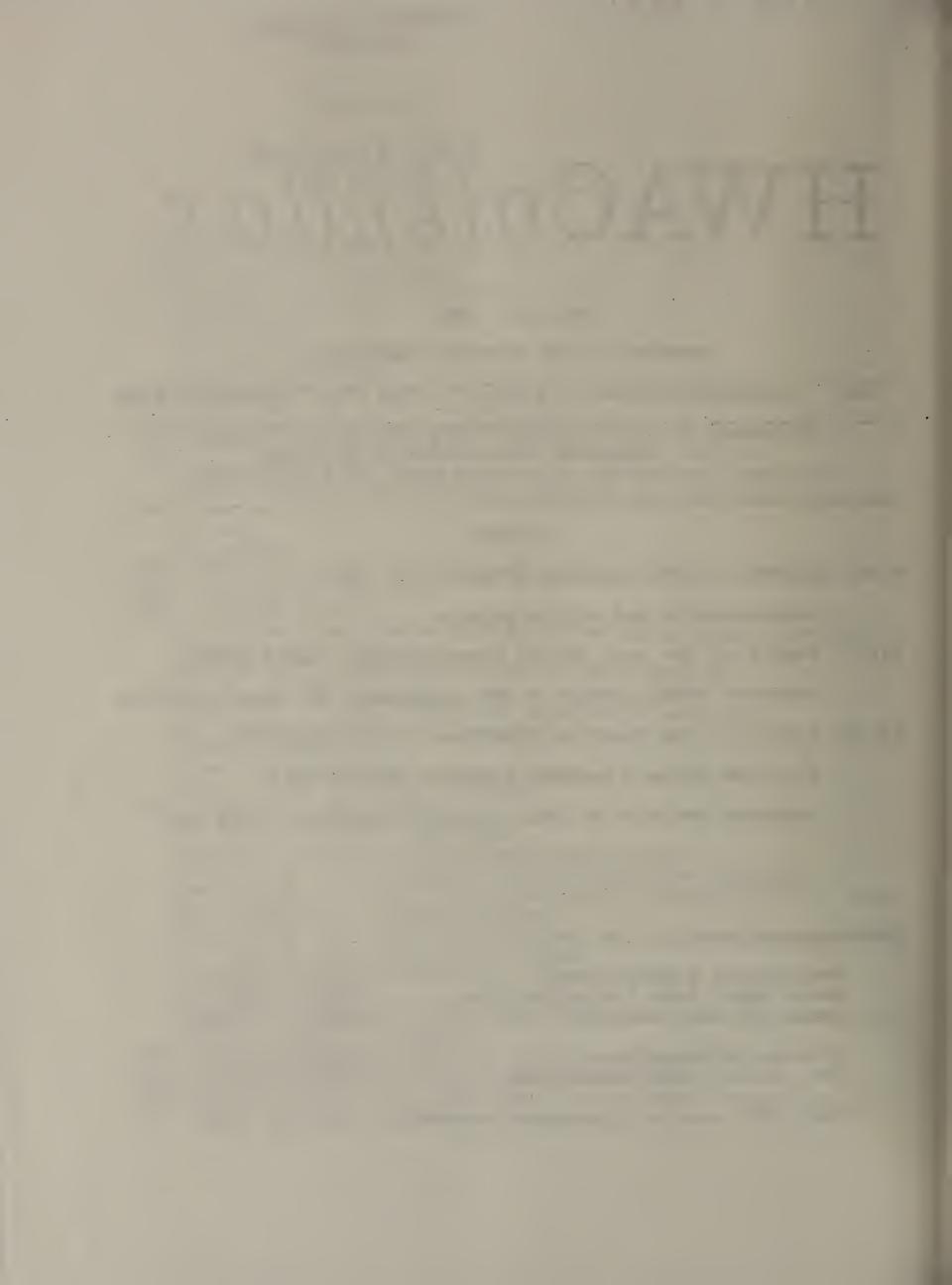
Regs Review Subcommittee
Mass. Dept. Fish & Wildlife Bldg.
Route 9 & 135, Westboro

Transporter Committee
DEP, 5th fl. conference room

June 11, 1993 9:30 - 3:00 Topic: 30.390

June 9, 1993 10:00 - noon

*Next HWAC meeting (pending discussion) July 21, 1993



To: Members of the Hazardous Waste Advisory Committee

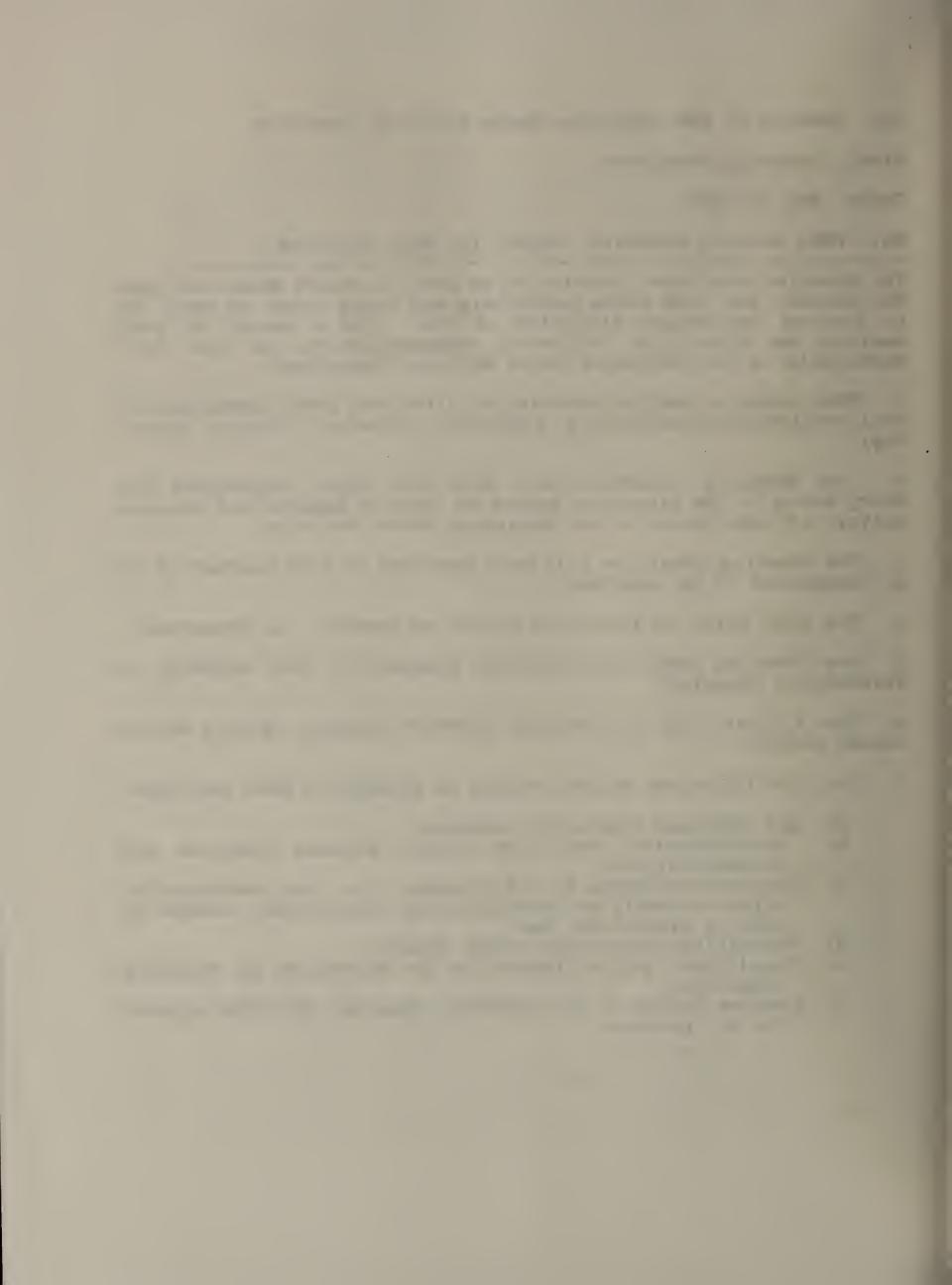
From: Steering Committee

Date: May 19, 1993

Re: HWAC meeting schedule; topics for HWAC meetings

The Steering Committee, consisting of Bob Cox, Geoff Brown and Lynn Rubinstein, met with Steve DeGabriele and Nancy Wrenn on April 21 to discuss the future direction of HWAC. As a result of that meeting we offer the following recommendations to the full membership of the Hazardous Waste Advisory Committee:

- 1. HWAC adopt a meeting schedule of alternate month meetings for full Committee meetings (July, September, November, January, March, May).
- 2. The Steering Committee will meet with Steve DeGabriele and Nancy Wrenn in the alternate months to develop agendas and discuss matters of importance to the Hazardous Waste Division.
- 3. The Steering Committee will call meetings in "off months" if it is determined to be important.
- 4. The HWAC Rules of Procedure should be amended, as presented.
- 5. The Steering Committee should be expanded to four members, as statutorily required.
- 6. That a field trip of relevance to HWAC's mission be held in the summer months.
- 7. That the following matters should be brought to HWAC meetings:
 - a) All proposed regulatory changes.
 - b) Comprehensive regulation review process progress and recommendations.
 - c) Outside challenges to 21C program, i.e., new technologies which currently are prohibited by regulations, changes in federal preemption law.
 - d) Recodification/authorization efforts.
 - e) Significant policy issues (to be determined by Steering Committee).
 - f) Program issues, i.e., staffing, funding, DEP/EOEA support for 21C program.





Massachusetts Hazardous Waste Management Advisory Committee

Minutes of HWAC Meeting May 19, 1993

Members present: Adams, Brown (chair), Cahaly, McGregor, Mascoop,

Ozonoff, Rubinstein, Schloss

Absent: Cox

The minutes of the March 24, 1993 meeting were accepted as written.

Geoff Brown reported that DEP Futures Day had been interesting and productive. The attendees were asked to discuss their perception of DEP's priorities and achievements. There was consensus that DEP needs to do a better communications job, particularly in telling how the environment has improved.

A letter from Mass. Audubon Society, stating that because of budget constraints <u>Susan Swedis</u> can no longer serve as a member of this committee, was distributed by Nancy Wrenn. The Society will not be able to fill this vacancy. Members asked that a letter be sent in response to indicate appreciation for the work of Susan and the Society.

Nancy Wrenn reported that the Northeast states are working together on issues related to the uniform national application for hazardous waste transporters. One issue relates to automatic reciprocity, which means that states have concern about consistency of license review and the potential undermining of state authority. The proposed changes will not take place for three years. There is no news on rail transfer from the Federal DOT. Only if there is a challenge would there be official comment on pre-emption.

Nancy Wrenn distributed comments which had been submitted to EPA on the proposed universal waste rule, including a request to add spent antifreeze. Brown said that his company had also submitted comments in general support of the rule.

Brown reported that the last two meetings of the Regs Review subcommittee have focused on household hazardous waste regulations, new models and solutions, and "odd ball wastes." The 30.200 (Recycling) section will be next and may require breaking certain topics out into small working committees to deal with the changes in technology. Brown said that the purpose of the Regs Review effort is to develop understandable, balanced and effective regulations which at least meet the federal standards. Cahaly noted that now that he works for a firm which does business in several states he sees how important it is to develop a clear distinction between federal and state-mandated requirements. Brown noted that even if DEP could submit their new regulations to EPA,

EPA does not have manpower to review them. He asked that the committee consider a letter drafted by the Steering Committee to Assistant Commissioner Pat Deese Stanton, urging that the Recodification project get under way as soon as possible. Members voted unanimously to send the letter with the addition that it was endorsed by the full committee.

Lynn Rubinstein, reporting for the Steering Commmittee, recommended that there be a 4-person steering committee and offered a proposed meeting schedule, which would change the meetings of the full committee to every other month, with the Steering Committee meeting in the between months. HWAC agendas would deal with such items as technologies, pre-emption, federal recodification, reauthorization and significant policy issues. Gina McCarthy suggested that if the 4-person steering committee were not unanimous on an issue, it should be brought to the full committee. Greg McGregor asked that there be guest speakers and that the meetings should be advertised more widely to increase public participation. Dick Cahaly and Andrea Adams noted that the committee could be influenced by special interests, e.g. government, industry. David Ozonoff stated that in the past HWAC had an important part in fashioning the regs and served as a forum for battles before they got to the legislature and now is entering a new phase. He feels they must consider what works and what doesn't and deal with the larger issues. Brown said that he viewed 21C as a product, which is now in its maintenance phase. Following a motion by Adams to accept the steering committee proposal, seconded by Schloss, there was more discussion. Members asked that at each HWAC meeting there be a brief report from the Steering Committee and the subcommit-tees. Other suggestions were that there be advance notice to HWAC members of any action requiring a vote so they have time to seek their constituency's opinion; that this new schedule be reviewed in a year; subcommittees should bring fully developed issues to HWAC, balance to be determined by Steering Committee. The motion then passed unanimously.

A new steering committee was then called for by <u>Rubinstein</u> who announced that she can no longer serve. Volunteers: <u>McGregor</u>, <u>Adams</u>, <u>Brown and Cox</u> were nominated and unanimously voted. This committee will meet on June 16. The full committee will next meet on July 21. <u>Adams</u> requested that a letter be sent to the previous steering committee thanking them for their work. <u>Brown</u> noted that he would miss Lynn's involvement, that they often agreed on ends while sometimes disagreeing on the route to that end.

A draft revision of the Rules of Procedure submitted by <u>Bob Cox</u> was distributed and will be discussed at the next meeting.

Gina McCarthy noted as an update on the 21D legislation that there is a local control issue in Sect. Il and some members of the Committee on Natural Resources are considering taking out Sect. Il and keeping 150B, which would considerably weaken the bill. Many positive comments on the legislation have been received, she said.

HWACalendar

July 21, 1993

MEETING OF THE ADVISORY COMMITTEE

7th Floor Conference Room One Winter Street Boston DEP Published by the Hazardous Waste Management Program for the Hazardous Waste Advisory Committee for more information call Nancy Wrenn at 617-292-5587 Agenda 9:30 Minutes of 5/19/93 HWAC meeting Status reports and updates: Public hearing schedule - DeGabriele Transporter committee - Davies and Nardone - Regs Review subcommittee - Brown, Rubinstein - Recodification - DeGabriele 21D Legislation - McCarthy Innovative Technologies Initiative within DEP - Dean 10:00 Spencer, Office of General Counsel 10:45 Implications of SFY'94 and FFY'94 Budget - DeGabriele Newly funded technical assistance project - Wrenn 11:00 Local Responsibility: Model Hazardous Materials By-Law -Jacob Moss, Christine Chisholm, Division of Water Supply, Bureau of Resource Protection HWAC Administrative issues - Report of the Steering committee - Future agenda topics

- 11:30

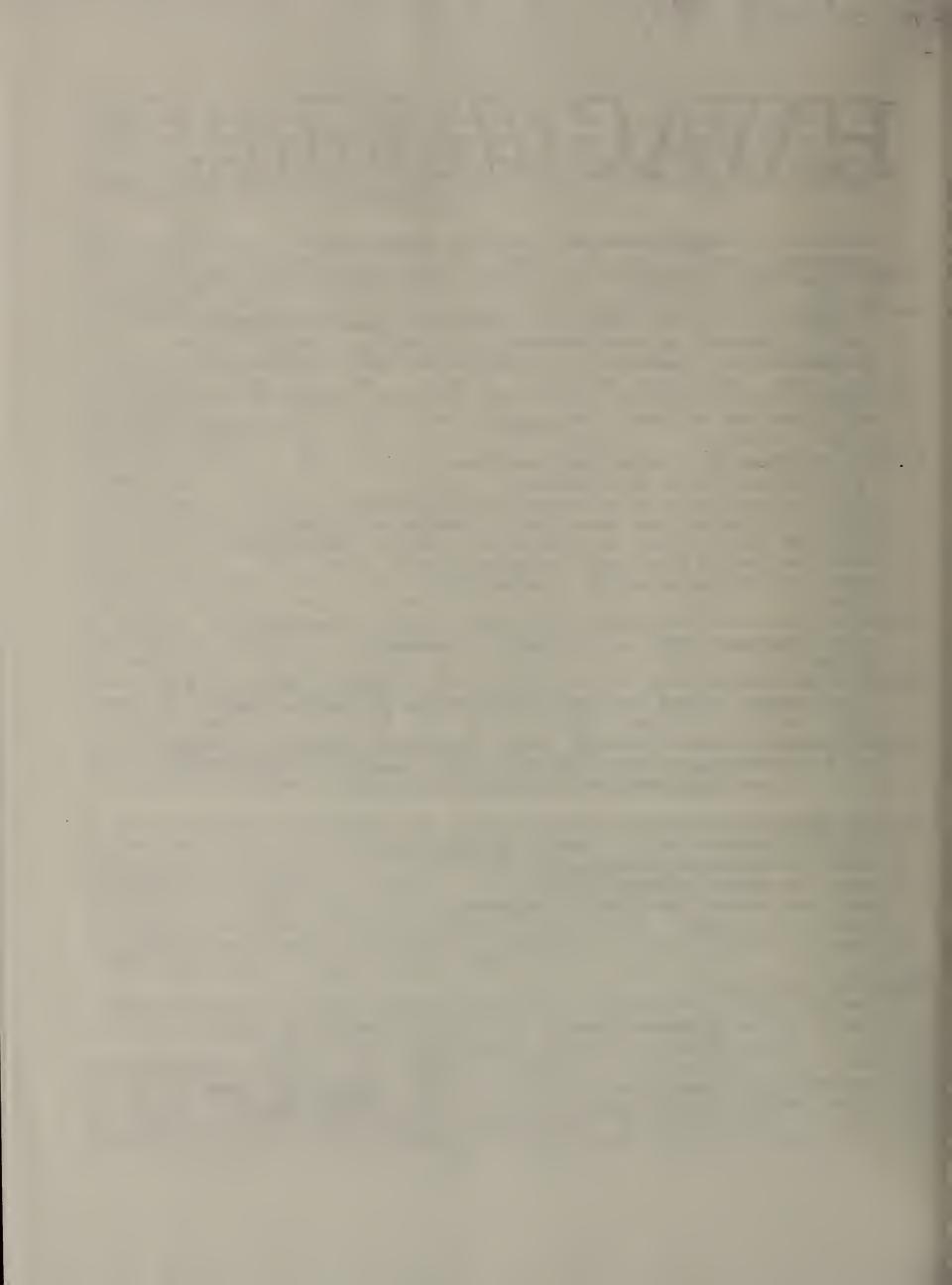
 - Rules of Procedure
 - Vacancies (public members)

Upcoming meetings:

Regs Review Subcommittee Mass. Dept. Fish & Wildlife, Westboro

August 6, 1993 9:30 - 3:00

Transporter Committee DEP, 5th Fl. Conf. Room August 11, 1993 10:00 - Noon



HWAC alendar.

September 15, 1993

MEETING OF THE ADVISORY COMMITTEE

DEP Southeast Regional Office 20 Riverside Drive Lakeville

Published by the Hazardous Waste Management Program for the Hazardous Waste Advisory Committee for more information call Nancy Wrenn at 617-292-5587

Agenda

	Agenda
1:30	PM Welcome - George Crombie, Regional Director Overview of hazardous waste issues in this region
2:00	Minutes of July 21, 1993 HWAC meeting Status reports and updates: - Regs Review subcommittee - Rubinstein - Recodification - DeGabriele - Model Hazardous Material By-Law - Wrenn - BWP combined advisory committee meeting - DeGabriele - Budget and staff for FFY'94 - DeGabriele
2:30	Unfinished committee business - Rules of Procedure modifications - Vacancies
3:00	Cape Cod hazardous waste issues - Andrea Adams

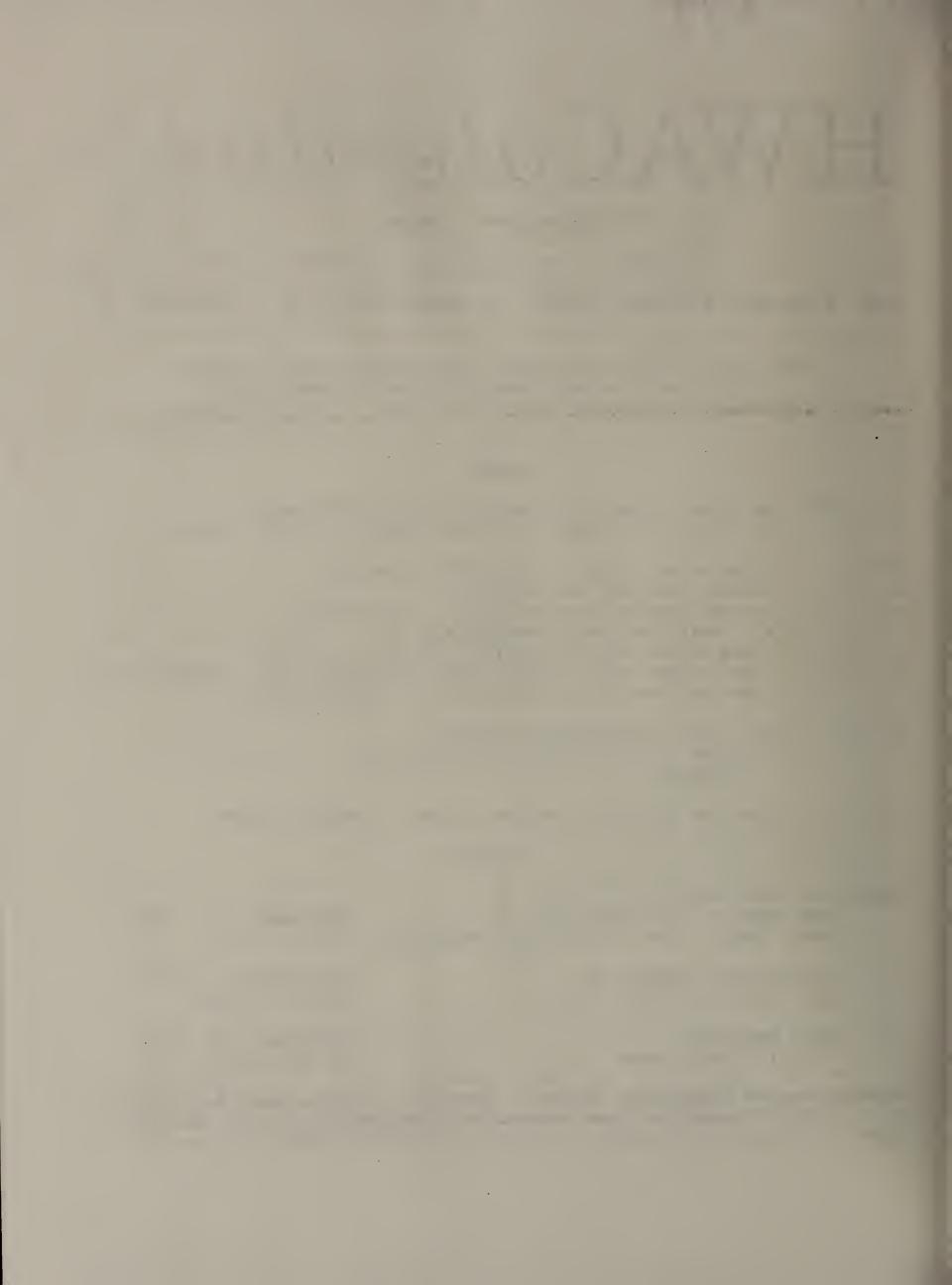
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Regs Review	Subcommittee	September 17, 1993
Mass. Dept.	Fish & Wildlife, Westboro	9:30 - 3:00

Transporter Committee	September 8, 1993
DEP, 10th Fl. Conf. Room	10:00 - noon

HWAC Meeting	November 17, 1993
7th Fl. Conf. Room	9:30 - noon

Directions to Lakeville Office: From Rte. 495 S. take exit 4 and turn right. Watch for the Lakeville Corporate Park on the left. DEP is in the 2nd building on the left in the Park.





Massachusetts Hazardous Waste Management Advisory Committee

Minutes of HWAC Meeting July 21, 1993

Members present: Brown (chair), Mascoop, Rubinstein

Absent: Adams, Cahaly, Cox, McGregor, Ozonoff, Schloss

Innovative Technolgies Initiative:

Dean Spencer, Sr. Deputy General Counsel, described his special assignment to review those situations within and outside DEP which may present regulatory or institutional barriers to innovative technologies. Lessons learned to date: there are some overly rigid procedures and classification where adjustments can be without risk to the environment, there is generally misunderstanding among applicants about the information they need to provide the department and the schedule/protocol of moving through the permitting approval process. Examples of areas within DEP where changes are possible: in BRP, alternative septic systems within the context of Title V revision, now underway; in BWP, untangling the confusion around "closed loop recycling", clarifying waivers under TURA; in BWSC, establishing a coordinator for Spencer said that his innovative remediation technologies. recommendations, based on a preliminary survey, will go to the Commissioner in two weeks. He anticipates that a coordinator will be designated by the Commissioner and other staff will be assigned to follow through on pragmatic steps which can be done within a Discussion among HWAC members centered on the use of a waiver, technology vs. performance standards, DEP and local liability for decisions and the need for more coordination/support for local authorities who also have to review these technologies. Steve Dreeszen noted that the division has approved 6-8 pilot treatability studies each year and some of these have gone to full implementation, e.g. CFC Systems now in use by Clean Harbors in Baltimore. Dreeszen also commented that submittals from developers are often sloppy and do not match the regulatory requirements. Geoff Brown offered the support of HWAC to assist the Initiative.

Status reports and updates:

Al Nardone reported that several recent events/decisions have potentially weakened the Mass. transporter licensing program. DOT has ruled that DEP cannot require transporters to post a bond, as this is duplicative of DOT requirements; the American Trucking Association has challenged the flat fee (\$200/yr) for Vehicle ID's; new regulations being written to standardize the transporter permit raise issues of reciprocity and states' ability to enforce; and the challenge by the Chemical Waste Transporter Institute to Maryland's driver training program, which is similar to Massachusetts.

Geoff Brown reported that the Regs Review subcommittee will be reviewing the "200" section next to determine the issues. <u>Dreeszen</u> offered recycling engineers, Tepper and Bergstrom, as resources.

Dreeszen reported that the regs separation/recodification will be moving forward under an EPA contract. He announced that six public hearings are being scheduled between August 27 and September 1 to move several proposed amendments to 310 CMR 30.000, which have been waiting for some time. These are related to the extension of the Insolvency Fund, flexibility in the use of the 4 or 8 part manifest, designation of organizer or operator in management of permanent household hazardous waste centers, and consistency changes relative to the new 21E for use of bill of lading and with RCRA for the Biennial Report requirement for TSDF's. announced that the SJC had ruled in favor of Clean Harbors, Braintree, supporting the grandfathering of existing TSDF's, which leads the way to resolution of Weymouth, Braintree and Quincy's challenge to the part B license, which has been pending adjudication of an appeal. Dreeszen stated that the department has been level funded by the State Legislature, but that 6 positions will be moved off the federal grant because of shrinking federal funds and an increase in employee salaries. These people will have transfer opportunities within DEP.

Nancy Wrenn announced that EPA has given DEP grants for two technical assistance projects, one for Printing Industries of N.E. to do multi-media site visits with commercial printers, the other will be a "train the trainer" program working with automotive shops in Mass. voc tech schools, building on last year's DEP "Full Tune-up" compliance seminars for the vehicle maintenance industry.

Model_Hazardous Materials By-Law:

Jacob Moss, Christine Chisholm, and Jude Hutchinson from the BRP, Division of Water Supply, were introduced. Moss stated that mis-management of hazardous materials has endangered public water supplies. With the advent of new, and expensive, national testing requirements in November, many public water suppliers will be interested in applying for a waiver for certain chemicals, which are not used in their area. A registration program for hazardous materials will be a means of documenting this and of protecting drinking water. The proposed model by-law, which was sent to HWAC members prior to this meeting, was vigorously debated. made: there is potential redundancy (TURA and Tier II reporting, groundwater discharge permits, UST registration); towns cannot manage this easily without training (DEP Hotline would also help); businesses may be forced to close if by-law is retroactive; how does it fit a regional water supply district?; towns have gotten into intense difficulty with chemical lists; model should go to public hearing.

Members agreed that their next meeting would be September 15, and if possible, will be held in Rochester, following a visit to SEMASS. Administrative issues were deferred to that meeting.

HWACalendar

October 20, 1993

MEETING OF THE ADVISORY COMMITTEE

DEP One Winter Street, 7th floor conference room Boston

Published by the Hazardous Waste Management Program for the Hazardous Waste Advisory Committee for more information call Nancy Wrenn at 617-292-5587

Agenda

9:30 AM	Minutes of 9/15/93 HWAC Meeting
9:45	Recommendations of the Regs Review Subcommittee relative to 310 CMR 30.200 - Gina McCarthy
10:45	Recommendation relative to clarification of 30.408 and 30.401(3)(d) - Geoff Brown
11:15	Water supply protection issues - Steve DeGabriele
11:30	Status report on "IBR" (Incorporation by Reference) and closed loop recycling task force - Jim Miller
11:45	****** Brief Steering Committee meeting

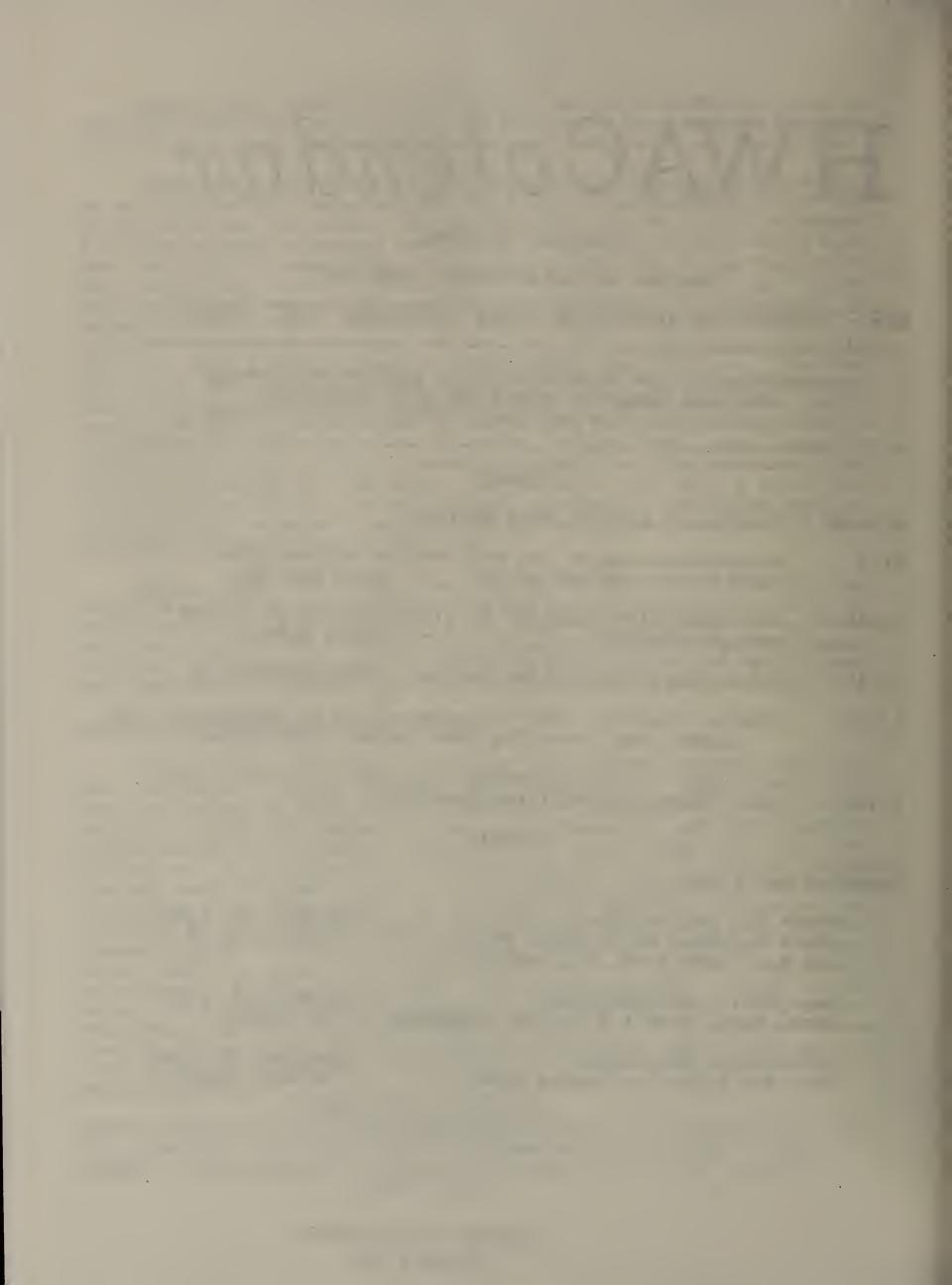
Upcoming meetings:

Waste Oil Subcommittee State Archives at Columbia Point 220 Morrissey Blvd. So. Boston	October 26, 1993 1:00-3:30 PM
Regs Review Subcommittee Mass. Dept. Fish & Wildlife, Westboro	October 29, 1993 9:30-3:00
Transporter Committee DEP. 5th Floor Conference Room	November 10, 1993

GOVERNMENT DOCUMENTS
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Massachusetts Hazardous Waste Management Advisory Committee

Minutes of HWAC Meeting September 15, 1993

Members present: Adams (chair), Brown, Cahaly, Cox, Mascoop,

Schloss

New Mass. Waterworks representative: Leon Lataille

Absent: McGregor, Ozonoff, Rubinstein

The meeting was held at the new Southeast regional offices of DEP in Lakeville, following a field trip to the SEMASS facility in Rochester, which was attended by HWAC members, Brown, Cox, Masccop, Schloss and Lataille and DEP staff, DeGabriele, Dreeszen and Wrenn, and Gina McCarthy of the Siting Council.

Leon Lataille, a wastewater engineer with the Mass. Water Resources Authority, was welcomed.

Gerald Monte, BWP Compliance and Enforcement Chief in the Southeast Regional Office, gave an overview of their EPA-funded pilot program which will prioritize multi-media inspections, building on a computerized system developed by EPA for Air Quality inspections. The ranking will consider not only size of the facility, but its potential environmental impact and risk of non-compliance. Other factors are permit status, environmental sensitivity, special pollutants, and type of source. Experienced inspectors will also assign a numerical value to each facility.

Ethan Mascoop suggested that towns can be the "eyes and ears" for DEP, as long as there is training for local officials. Gina McCarthy said there is a need for a sign-off mechanism for people like building inspectors, such as a checklist of the various DEP permits needed. Locals may also be able to assist with those sources that are at the bottom of the ranking.

Andrea Adams reported that the Regs Review committee has completed the Class A group of recyclers and is up to Class B3. They are separating the on-site recycling from off-site and looking at three categories: no notification, 10-day permit and full permit. A special subcommittee, chaired by Len Landry, will be looking at waste oil and waste oil recycling. Steve Dreeszen suggested that the committee's recommendations would be helpful now because staff are also reviewing recycling permits. Geoff Brown offered to explore with AIM's environment committee the question of whether industry wants a piece of paper to confirm its recycling activity. A decision will be made on October 8 at the next Regs Review meeting as to whether to have a full HWAC meeting in October.

Steve DeGabriele reported that the recodification project is proceeding and DEP staff will be working with an EPA contractor to incorporate Federal regs by reference. Changes will be considered, primarily in the state regs, but it is possible that DEP will want to lobby for changes in the federal regs, as well.

Nancy Wrenn reported that the proposed BRP model hazardous materials by-law has been redrafted as guidance and BRP staff are willing to meet with interested HWAC members to review it. Adams, Brown, Schloss, Mascoop, Lataille all expressed interest, as well as McCarthy. Marina Brock, of the Barnstable County Health District staff, noted that the Cape Cod area has had positive results from a by-law which has been implemented as a multi-media compliance assistance program with support from Boards of Health and local fire departments.

<u>DeGabriele</u> announced that a meeting of BWP advisory committees is being planned by Pat Deese Stanton. He noted that HWAC members should consider what their role may be in the future, given the direction of a cross-media bureau, and possible overlap with other programs. He also described the status of current funding in this program. Of 75 staff which were in the program a few years ago, only 35 remain today. 3-4 positions will be transferred shortly.

Bob Cox presented his draft of changes to the Committee's Rules of Procedure. Cahaly suggested that under Quorum, the wording be changed to add (or 35% if membership exceeds 9); under Other Procedural Matters, anything not explicitly addressed by these rules shall be referred to Roberts Rules of Order for procedure; under Members, (9) wording should be changed to say "at least one member of the public." Brown made a motion to accept these changes, seconded by Cahaly, and the motion was unanimously approved.

<u>Wrenn</u> said that now that Leon Lataille has been identified as a new member, a package will be submitted to the Governor. Adams and Brown are also awaiting formal apointment. The Steering Committee will address the vacancy remaining for a public member.

Adams and Brock, representing Cape Cod, provided an overview of two waste issues: cost analysis of a Barnstable County fixed hazardous waste facility and the recent completed clean-out of Cape Cod high school laboratories. 85% of the hazardous lab material collected had never been opened, some dating to the 1800's! The most difficult barrier the county health team encountered was administrative resistance to acknowledgement of the problem. Once the State Fire Marshall became committed, the project moved more successfully. The potential impact on students' health and safety is significant, members of HWAC agreed. Plans are now underway to expand the program into other areas of the state.

PROVISIONS FOR RECYCLABLE MATERIALS AND FOR WASTE OIL 310 CMR 30.200 RECOMMENDATIONS OF REGULATIONS REVIEW SUBCOMMITTEE AUGUST AND SEPTEMBER 1993

Background:

The subcommittee confirmed its agreement with the original intent of DEP when promulgating the recycling regulations, i.e. that recycling be regulated "with sufficient stringency to prevent sham recycling and other practices that are hazardous to public health, safety and welfare, and the environment; but not with such stringency as to discourage recycling." (DEP Public Hearing Draft Spring 1986) The subcommittee also recognized one of the main principles underlying the federal and state scheme governing recycling: "recycling involves the reuse after processing of a material which is substituted for a virgin material. It will only be done if the cost of that reuse - including the cost of reprocessing and the cost management in compliance with government regulation - is competitive with the cost of the virgin material." (DEP Public Hearing Draft Spring 1986).

The subcommittee reviewed the recycling regulations not only to ensure clarity, equity or balance, effectiveness, and meeting minimum federal regulations, but more importantly, in light of the need to remove unnecessary barriers to recycling and to keep the cost of regulatory compliance minimal, while ensuring the appropriate level of regulatory oversight.

Discussion focused on reaching consensus as to the appropriate level of oversight or permitting necessary for generators and users of each class of regulated recyclable material. The regulatory standards governing the accumulation (storage and handling) of these materials, 30.201 through 30.211, were not yet considered for revision except to the extent that their application should apply to all who generate or recycle regulated recyclable materials, rather than specifying permittee. This change is necessary since the subcommittee recommends that permits not be required for many recycling activities but seeks to maintain the same level of standards for the storage and handling of these materials.

It was understood by the subcommittee members that generators of regulated recyclable materials are already, by virtue of their status as generators of hazardous waste, within the purview of 21C. Therefore, the subcommittee believed that the major focus of regulatory control in these regulations should be the receiver of the material to ensure that the handling and use of the material is in accordance with the federal regulations, i.e. to ensure that the material being recycled is similar in nature and use to the substituted virgin product, to prevent cross media contamination, to prohibit speculative accumulation, and to prevent sham

A material is "recycled" if it is used, reused, or reclaimed.

recycling. For this reason, the subcommittee examined each class of material according to whether or not the recycling occurred at the site of generation, and what type of permitting was necessary for the generator and the recycler to ensure compliance, without the cost of compliance becoming an unnecessary disincentive to recycling. The levels of oversight considered included: no notification/no permit, 10-day permit (notification), and full permit.

In addition, a general recommendation that the DEP prepare a guidance document to assist generators and potential users of recycled material in the interpretation of these regulations by summarizing past policies and determinations and by listing the common questions and answers relating to recycling was approved by the subcommittee.

WASTE OIL: Because of the complexity of all issues relating to the regulation of waste oil and the need for their thorough review, the subcommittee deferred recommendation on all regulations relating to waste oil pending the formation of a representative group, chaired by Len Landry, which will be tasked with the job of reviewing all waste oil regulations, including recycling, and reporting back to the subcommittee its recommendations for regulatory revisions.

SUMMARY

Class A

It was understood that Class A represents those materials that are exempt from regulation as a hazardous or solid waste at the federal level.

ON-SITE:

The consensus of the subcommittee was to encourage on-site recycling of these materials by not requiring any notification or permit from DEP for on-site recycling, that is when the material is recycled at the site of generation. Exceptions to this recommendation are A4 (off-site recycling of used batteries) which by definition is restricted to off-site recycling; A10 (recycling in a completely enclosed recycling system at the site of generation) whose definition is not clear and still under investigation; All (material which has been granted an EPA variance); and A12 (municipal waste oil/heaters) as it relates to space heaters. It was determined that variances considered by DEP under All relate to three issues only: limited over-accumulation, multi-step recycling processes, and waste that meets the definition of "reclaimed" but in actuality needs further recovery. It was agreed that the subcommittee would only recommend that the language in All be amplified and clarified and that DEP review proposals to recycle within this classification on a case by case basis and

A material is "reclaimed" if it is processed to recover a usable product, or it is regenerated.

determine the level of oversight necessary. The issue of space heaters was referred to the waste oil group for discussion as were all recommendations involving A8, A9, A10 and A12. All recommendations by the subcommittee relative to waste oil were to be viewed as guidance to the waste oil group and not as any final determination.

OFF-SITE:

The consensus of the subcommittee was to encourage recycling of these materials by not requiring generators to notify DEP or to obtain any DEP permits when shipping these materials off-site to a permitted recycler for recycling. The subcommittee believes that DEP oversight should focus its efforts on the receiver or recycler. As long as the generator ensures that a receiver is permitted to recycle the material, the generator should not be obligated to receive any additional permit but must comply with the state and federal management, storage, and handling standards. Exceptions to this are A10 (enclosed recycling) and A11 (EPA variances) as discussed above.

Recommendations as to the level of oversight necessary for receivers or recyclers of off-site generated recycling material varied depending on the classification. Ala (material used or reused as ingredients provided that the materials are not being reclaimed), Alb (materials used or reused as substitutes for commercial products), A2 (industrial ethyl alcohol), A3 (scrap metal) not including brokers, A4 (used batteries returned for regeneration), and A9 (specification used oil fuel burned for energy recovery) are recommended to require 10-day permits for offsite waste recyclers. These permits require that an application be submitted to DEP for a 10 day review during which time the permit is automatically deemed approved if no response is received from This process will ensure that permittee are aware of regulations and responsibilities under the recycling regulations, will allow DEP to have a listing of permittee for enforcement purposes, requires minimal DEP manpower, and its quick timeframe will not pose an undue burden on those who wish to recycle. (materials returned as substitutes for feedstock in the original production process without being reclaimed) is recommended to not require any notification or permit as it implies reuse at the site of generation. A5 (a sludge having the characteristics of a hazardous waste when being reclaimed), A6 (a by-product having the characteristics of a hazardous waste when being reclaimed) and A7 (a "listed" commercial chemical product which has never been used and is being reclaimed), are all recommended to require full permits from DEP by off-site reclaimers. It was felt that greater scrutiny is required of reclamation activities to prevent sham recycling and other threats, since the material requires the expenditure of money for the material to become a useable commodity, reducing the ecomonic incentive to recycle the material in accordance with regulatory requirements . Similarly, the subcommittee recommended that off-site recycling of A8 material Similarly, the

(waste oil, including waste oil having the characteristics of a hazardous waste, if recycled in some other manner than being burned for energy recovery) require full DEP permitting for the recycler. A9 (specification used oil fuel burned for energy recovery) was referred to the waste oil group with the recommendation that offsite recyclers be required to obtain only a 10 day permit since an air quality permit from DEP would in most instances be required from DEP to address any potential air emissions. A10 (enclosed recycling) was tabled as discussed above, A11 (EPA variance) was left up to DEP case by case determination as discussed above, and A12 (municipal waste oil\heaters) was tabled for clarification and recommendation by the waste oil group.

Class B

The subcommittee understood that these materials are more stringently regulated than are Class A materials due to the level of oversight necessary to protect against uncontrolled releases to the environment through the land and air.

The consensus of the subcommittee was to recommend no change in the permitting of B1 (material used in a manner constituting disposal by being discharged to land or water), B2 (hazardous waste fuels to be burned for the production of heat or power) and B3 (used oil fuels burned for the production of heat or power) materials, while referring B3 to further review by the waste oil group and noting that DEP should clarify the applicability of the Boiler and Industrial Furnace (BIF) Rule to both B1 and B2 activities. Due to the extremely high hazards associated with many of the solutions containing precious metals, and the past environmental damage associated with these operations, the subcommittee also recommended that B4 (spent materials and listed hazardous waste containing recoverable precious metals) permitting remain as is, but seeks clarification to specify that on-site reclamation of precious metals in a process that is integral to the manufacturing process, in accordance with an industrial wastewater discharge permit, does not require a recycling permit. B5 (reclamation of spent lead acid batteries) was also recommended to remain as is, recognizing the need to carefully regulate smelters. However, language was recommended to be added, or a fact sheet prepared, to explain that generators, including those who break and drain batteries, and transfer facilities, are not subject to this permitting requirement.

Class C

The subcommittee recommended that Class C (materials neither Class A nor Class B which are not stored before recycling) permitting remain as is, noting that storage prior to recycling requires the issuance of a RCRA treatment, storage and disposal permit.

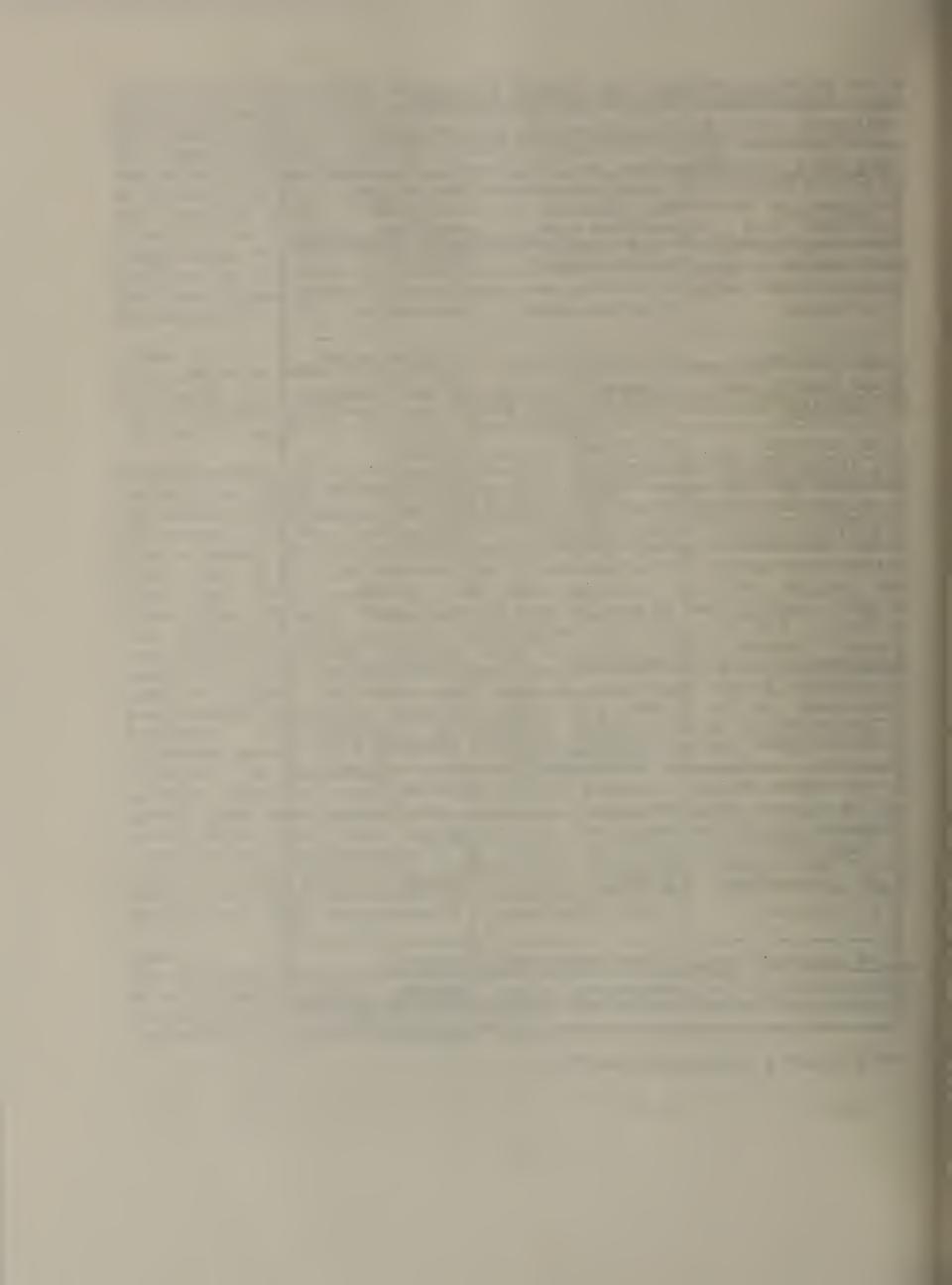
Recommendations of HWAC Regulation Review Subcommittee

DEP Permitting: Recycling of Regulated Recyclable Material (RRM)

CLASS OF RRM	DEP PERMITTING FOR ON- SITE RECYLERS AND GENERATORS OF RRM	DEP PERMITTING FOR OFF-SITE RECYCLERS
Ala= Ingredients	No notification no permit	10-day permit
Alb= Substitutes	No notification no permit	10-day permit
Alc= Original production	No notification/no permit	No notification/no permit
A2= Industrial ethyl alcohol	No notification/no permit	10-day permit
A3= Scrap metal	No notification/no permit	10-day permit
A4= Used batteries	N/A (off-site only)	10-day permit
A5 = Characteristic sludges	No notification/no permit	Full permit
A6= Characteristic by-products	No notification/no permit	Full permit
A7= Commercial chemicals	No notification/no permit	Full permit
*A8= Waste oil (not fuels)	No notification/no permit	Full Permit
*A9= Used oil fuels (spec.)	No notification/no permit	10-day permit
*A10= Enclosed recylcing	Tabled under review	Tabled under review
All = Materials with EPA variances	DEP case by case determination	DEP case by case determination
*A12= Municipal used oil	No notification/no permit (space heaters-no recommendation)	referred to waste oil group
•BI = Land or water disposal	Full permit	Full permit
•B2= Burning hazardous waste fuels	Full permit	Full permit
*B3= Burning used oils fuels	Full permit	Full permit
B4= Precious metals	Full permit (clarifying language)	Full permit
B5 = Spent lead acid batteries	Full permit (clarifying language)	Full permit
C= Not A or B	Full permit	Full permit

Recommendations referred to waste oil group for further review and reporting back to subcommittee.

Clarify applicability of Boiler and Industrial Furnace (BIF) rule.



HWACalendar

December 15, 1993

MEETING NOTICE

ONE WINTER STREET BOSTON 7TH FLOOR CONFERENCE ROOM DEP

Published by the Hazardous Waste Management Program for the HAZARDOUS WASTE ADVISORY COMMITTEE for more information call Nancy Wrenn at 617-292-5587

Agenda

Minutes of 10/20/93 Meeting. Addition to the Recycling 9:30 Recommendations from the Regs Review Subcommittee is enclosed for HWAC members.

9:45 Announcements

10:00 Status Reports Regs Review Subcommittee Waste Oil Subcommittee

EPA Annual Technology Transfer Meeting Report - Steve 10:15 DeGabriele

Overview of 1993 - Changes, Events, Progress 10:30 Impact of Program Reorganization - Steve DeGabriele Multi-Media Inspection Program -Transporter Licensing & Federal actions - Steve Dreeszen Siting Law Changes - Gina McCarthy Innovative Technology Thrust - Steve Dreeszen 310 CMR 30.000 Overhaul - Jim Miller Household Hazardous Waste - Nancy Wrenn

12:00 Holiday Luncheon

You are cordially invited to join us for our annual buffet lunch (\$6.00/ person). Please call Nancy Wrenn at 617-292-5587 by Monday, December 13, if you plan to stay for lunch.

Transporter Committee meeting DEP, 5th floor conference room

Regs Review Subcommittee MA Fish & Wildlife Library, Westboro

Waste Oil Subcommittee
State Archives, So. Ros Hon DOCUMENTS

December 8, 1993 10:00 - Noon

December 10, 1993

9:30 - 3:00

December 15, 1993 1:00 - 4:00

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substitute commodity for use by another company. If the material is handled improperly or substantially altered, it would not be a Class Al material. Steve DeGabriele suggested that notification would require the generator to at least think of the material as a potential hazardous waste. Brown noted that other reporting requirements may apply as well. In response to a question from Jim Miller, McCarthy said that the review had not dealt with status and generator requirements, the focus had been on the potential environmental harm of each type of recyclable material. She suggested that the assumption that recyclers were covered as generators would need to be revisited. Dick Cahaly felt that some accountability was needed for waste to be exchanged. All agreed that there needs to be a reference from the .200 section to the .300 section if activities are not covered by .300. The procedure for a variance (A 11) needs to be specified. DeGabriele wants to review the possible overlap among SARA Title III, TURA, and Biennial Reporting.

In the Class B's and C's the reviewers recommended clarification, not change. In all cases a full permit was recommended for both on-site and off-site activities. The issue of "completely enclosed" and "integral to the manufacturing process" is now under internal review, Miller said.

Brown made a motion to adopt the recommendations of the subcommittee, consistent with Gina's suggestions. Cahaly seconded, and the motion was voted unanimously in favor.

Dave Terry, director of the Bureau of Resource Protection Water Supply Program, was introduced by Steve DeGabriele to provide an overview background to the discussion of municipal water supply protection. (HWAC members have been involved in review of BRP guidance on model by-laws.) Since 100 wells were closed in the there has been increasing concern about potential contamination sources and the ability of the Department to monitor land use activities in recharge areas, Terry said. The Clean Water Strategy (1992) addresses the interaction of the Clean Water Act and the Safe Drinking Water Act and establishes a basic planning unit (Basin). Section 14 of the Watershed Protection Act ("Cohen Bill"), which was recently passed, requires ongoing technical assistance to water supply operators and finds that surface waters are not adequately protected within 100' radius of watersheds. Because of Prop. 2 1/2 only new sources can be restricted. Private "community" water suppliers are not subject to the requirements but there is leverage with the "increase withdrawal" provisions. The question, <u>DeGabriele</u> noted, is What is appropriate to be located in a watershed? Terry noted that NIMBY groups sometimes hide behind the water supply issue.

Jim Miller provided a brief report on the Incorporation by Reference (IBR) project and said there may be information on Clusters I-III by December for the next HWAC meeting. Only minor amendments to the State rules will be possible until authorization is given to DEP for the Federal program.